

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, May 22, 2014
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

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COMMISSIONERS

PRESENT: Gary Rhinhart, Don Marlatt, Suni Danforth, Cecil Thorne,
David Lee, Randy Randall.

ABSENT: John Standley, Tammie Williams, Don Wysocki.

STAFF: Tamra Mabbott, Richard Jennings, Shane Finck, Connie
Hendrickson

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CALL TO ORDER:

Chairman Randall called the meeting to order at 6:30 p.m.

APPROVAL OF MINUTES:

Commissioner Rhinhart made a motion to approve the minutes from the April 24, 2014 hearing, as presented. Commissioner Marlatt seconded the motion and it passed by consensus.

NEW HEARING:

Chairman Randall read the opening statement and identified the first hearing as Text Amendment #T-14-053, update of the Umatilla County Development Code and Comprehensive Plan.

Staff report: Senior Planner Richard Jennings told those present that the purpose of this update was to bring the local development code standards of approval into compliance with state law.

Update one: A revision to section 152.613; time limits for a conditional use permit and land use decision. Mike Connors, Wendie Kellington and David Hadley submitted comment letters expressing concern about this proposed update. Mr. Jennings met with county counsel, Doug Olsen and made some changes to that update and gave the commissioners a handout showing the changes. Currently each Conditional Use permit and Land Use Decision is valid for one year. A one-year extension can be requested after which the permit expires. This update will make the permit good for two years from the time it is issued without an extension before expiring.

Commissioner Lee asked if an extension would be granted after the two years and Mr. Jennings said no. What is being proposed says the permit is valid for a maximum of two years.

Commissioner Danforth questioned a portion of the language which stated that if for some reason the applicant is unable to start their project due to delays from a state or federal agency, they can request an additional year making the permit valid for three years. She was opposed to the update and said it should stay at the current one-year permit with a one-year extension. She added that the time when she received her packet until tonight's hearing was inadequate to thoroughly cover all of the material with regard to these updates and look up answers to the questions she had about them.

Planning Director Tamra Mabbott assured Commissioner Danforth that the Commissioners were not expected to know all of the statutes and they could trust that the planning staff had worked on this update over the course of the last year and it had been well researched. Modifications may need to be made to the document but the Planning Commission would be making a recommendation to the Board of Commissioners and there would likely be edits made to the document by the Board, as well.

Chairman Randall said he agreed with the language which would make the Conditional Use permit and the Land Use Decision valid for two years because it would keep the applicant from having to come back into the planning office a second time and reduce the amount of paperwork for staff. Discussion followed.

Commissioner Rhinhart asked about the changes to the update that occurred after Mr. Jennings met with county counsel. Mr. Jennings said if this language is adopted, the applicant whose permit is close to expiration would be sent notice and could request a hearing or be given an opportunity to submit additional information. The attorneys who had concerns and submitted comment will receive the updated language.

Commissioner Danforth said she thought permits for transportation and utilities should be acted on within two years instead of giving the applicant four years. Discussion followed and the Commissioners recommended that the wording be changed so that permits for transportation and utilities would be valid for two years like the permits for dwellings, etc.

Update two: Medical Hardship Dwellings. There is a misconception that any type of help that may be needed constitutes a medical hardship. The intent of the medical hardship dwelling is for someone who needs personal care for his or her Activities of Daily Living (ADL) and needs someone living close to them to provide that help. Often, the doctor's letter that is required for the hardship dwelling to be established is vague and unclear about the specific physical help that is needed. This update clarifies that the intent of a hardship dwelling is for someone to be close by to provide personal care, not just mow the lawn or feed animals, etc. David Hadley expressed concern that the county would be defining it too closely. Mr. Jennings modified the language to list some of the possible needs and added the phrase "but not limited to" so that other circumstances could be considered.

Commissioner Rhinhart asked how many hardship homes were currently permitted in Umatilla County and Mr. Jennings answered there were between 75 and 100.

Commissioner Rhinhart said the hardship dwelling situation had the potential to be abused. After the original hardship is no longer there, the temporary dwelling is sometimes rented or used by others who don't have a hardship. Mr. Jennings said the county requires a Conditional Use permit for hardship dwellings and they are placed on an annual review.

Mrs. Mabbott said doctors tend to be generous with regard to giving their recommendations for hardship dwellings. She referenced hardship dwellings in the county that are on the third family member in a hardship situation. These applicants met the old criteria and know how to work the system. This update is more restrictive from what is currently in place. The letter submitted by Mr. Hadley pointed out that there are many aging people who may not need assistance with bathing, etc. but have mobility issues. Mr. Jennings said that the definition of functional mobility is covered with the updated definition.

Commissioner Marlatt asked if the person requiring the assistance had to live in the existing dwelling and the caregiver live in the mobile home or if it could be the other way around and Mr. Jennings said it was allowed either way but the hardship dwelling had to be temporary and must connect to the existing septic. Discussion followed.

Commissioner Danforth referred to the list of possible medical needs and said if someone is aging and their health is declining, they may currently be able to perform the Activities of Daily Living but may need more help in the future. She also questioned why a financial hardship was not listed, noting that someone on Social Security might need to live on the same property as a family member but not necessarily in the same house. A financial hardship could be considered a temporary hardship that was not a medical issue. Mr. Jennings said the Development Code previously had a provision for a financial hardship but it had been removed.

Mr. Jennings referred to a past Conditional Use Permit that came before the Planning Commission with the applicants' asking that their grandson be allowed to live close to them. Theirs was not a medical hardship. They needed help mowing the lawn, making repairs and feeding their animals. The planning staff decided not to approve the request because it was not a medical hardship. The application was referred to the Planning Commission and was approved. Mr. Jennings said changing the language to say hardships "include but are not limited to" would make it more flexible, but cautioned that common sense needed to be exercised. We have to be able to say that there really is a medical need for help. Discussion followed. It was decided to add "but not limited to" to the language.

Update three: Home occupation; cottage industry. This update will clarify that the home occupation must be conducted inside a home or other accessory buildings on the property. The off street parking must be on that subject property and there can be no more than 5 to 10 vehicles. Home occupations are in residential zones and should be low impact on the neighborhood.

Chairman Randall asked if this was a problem in the county and Mr. Jennings answered that noise and other problems such as vehicles parked on the street awaiting repair by someone operating an auto repair shop from their home has created problems in the past. Applicants are told their business must be conducted within a building which helps reduce the number of people working out of their garages. Commissioner Marlatt referred to the removal of the language regarding having a parking agreement with a neighbor. Mr. Jennings said those parking agreements tend to lead to problems and the new language would require that the business provide off-street parking. After some discussion it was decided the language should say they could have parking for up to ten vehicles.

Update four: Chapter 152.019, Traffic Impact Analysis. The definition in the Development Code of a significant impact and the requirements of 152.019 were not the same. In 152.019 an increase of ten large trucks on a road required a traffic impact analysis to be completed. The definition in the Development Code of a significant impact was twenty large trucks on a gravel road requiring a traffic impact analysis. The new language would state that a traffic impact analysis would need to be done if there was an increase of twenty large trucks, over 10,000 lbs. gross weight per day on a county gravel road. This change would make the standard match the Code. Chairman Randall asked if agricultural trucks used during harvest, etc. would be exempt from this and Mr. Jennings said farm use is an outright use and those trips would not be reviewed. This was only for uses requiring a development permit.

Update five: This change would make the 15 day appeal period begin when the decision by the planning staff or the Planning Commission is mailed, making the Code consistent with state statute.

Update six: This update deals with the continuance of a hearing. The current language says that if a continuance is requested it must be granted. This update would change the wording so that granting a continuance is not mandatory.

Update seven: This change would modify Chapter 9 of the Development Code with regard to RV (Recreational Vehicle) parks. It places a finding in the policy to support economic development and tourism and the value of RV parks. This does not allow the use in a specific zone or change any standards. It just states that recreational needs are important to the county.

Update eight: This change would modify the language of the portion of the Code dealing with a Utility Facility necessary so that it is consistent with state statute 215.275. One addition is: (a) deals with the authorization of permitting a utility facility. Commissioner Danforth asked if all of the language was in the state statute and Mr. Jennings answered that it was. Mrs. Mabbott said this language encourages companies not to locate on high value farmland. Another addition is: (b) provides the criteria to establish a transmission line in conjunction with the utility facility. All this language was added by the state during legislation last year. Mr. Jennings said the project either would meet the criteria

for (a) the co-location option or they would locate through (b) showing that they can construct a transmission line because it is locationally dependent.

Commissioner Danforth asked if the language was identical to the language used by the state and Mr. Jennings answered that it was. Commissioner Danforth asked for a definition of the language “after the evaluation of reasonable alternatives” with regard to siting of a utility facility and how that would be measured. Mrs. Mabbott said those would be handled on a case-by-case basis and the applicant would have to show they had looked at other alternatives. Discussion followed.

Commissioner Danforth asked about the language which states that a transmission line had to be up to a certain standard. Mrs. Mabbott said that was an important provision. The county can look into whether separate legislation with regard to the safety of transmission lines is a land use issue and if so, can add language to the Code to address that topic.

Update nine: This update deals with modifying billboard requirements. A Type 10 Sign (billboard) currently has a maximum height of twenty feet making the bottom of the sign around eight feet off of the ground. Some billboards located in commercial zones don't allow for movement of a vehicle underneath them. Applicants then request a variance to height restriction which is difficult to grant because the standard says that in order to grant the variance, it must be an extraordinary situation or some type of hardship. This change would place the distance from the ground to the sign face twenty feet and the maximum height thirty-two feet. Most of these types of signs are on Hwy 11, on Hwy 395 and in some industrial zones.

Update ten: This update deals with Public Notice Requirements. There had been some confusion with regard to the timeline for sending a notice for legislative and quasi-judicial hearings. This change clarifies that if there is a matter that will go before the Planning Commission and requires one quasi-judicial hearing, the county must provide a 20-day notice to adjacent property owners. If it is a legislative action, requiring a hearing before the Planning Commission and another before the Board of Commissioners, the county must provide a 10-day notice to adjacent property owners. A question was asked about sending the Planning Commission packets earlier than seven days before the hearing. Mrs. Mabbott said that the timelines are based on statutory requirements. Statutorily we are required to make material for the hearing available to the public seven days prior to the hearing. Discussion followed. Staff will try to make arrangements to deliver packets earlier when possible.

Update eleven: Replacement Dwellings in resource zones (EFU or GF). This change would make two options for replacement dwellings: a Zoning Permit or a Land Use Decision. The process for acquiring a Zoning Permit for the replacement of an existing structure would stay the same. The only change is that the permit would not expire in one year as it does now.

Mr. Jennings said the second option is for a Land Use Decision to replace a dwelling that had been removed or destroyed. This requires that notice be sent to adjacent property owners. If it can be proven that a dwelling existed there and was assessed as a dwelling at one time, it can be replaced. There are criteria that must be met. The dwelling must have been connected to a well and a septic, etc. and it is not a foregone conclusion, but it does open the possibility of replacing a home on the property. This update will make the process easier for applicants because they will not have to meet the farm dwelling or non-farm dwelling criteria. These changes came through legislation from the state.

Update twelve: Mobile Food Vendors. This use would be allowed in commercial and industrial zones. One option is a temporary vendor who moves from place to place daily. If the vendor won't be in one location for more than 4 hours in one day or 48 hours in one place for a special event they will not need a permit. If a vendor will be set up continuously they need a zoning permit with a design review. The fee for this one-time permit is \$350.00. For either option the vendor would also need to get the necessary permits from the health department.

The design review criteria looks at parking, signage, access, vision clearance, etc. Commissioner Lee asked who would monitor those vendors and Mr. Jennings answered that they will be monitored both by the planning department's code enforcement division as well as the health department.

Melissa Ney is the environmental health inspector for the county and she looks at each vendor every 6 months. There is a long list of standards that must be met and Ms. Ney inspects the vendors for food safety. There is only one vendor that travels and parks for less than four hours on a daily basis. The majority are stationary and are there from about 9:00 a.m. to 5:00 p.m. daily. After some discussion it was suggested that they change the language to say the mobile vendors can be in a particular location "on a daily basis" but not overnight.

Update thirteen: Update to the Design Review Standards. Currently, any business that is permitted in a commercial or industrial zone requires a design review. Adding this updated language would allow the county to not require a design review in certain situations. If a business is sold and there will be no new construction or changes in use, a design review would not need to be done. A zoning permit with the new owners' name and information would still be required. This would decrease staff time and paperwork as well as saving the applicant the difference between a zoning permit for \$75.00 and a design review for \$350.00. Discussion followed.

Public testimony: Cindy Severe, 82422 Van Cycle Road, Helix, OR. Mrs. Severe had concerns about update number one for the conditional use permit. As an affected, neighboring landowner she agrees that four years is too long and was glad the language was changed to two years. She asked how the county will deal with the timeline when the permitting for a wind farm, etc. goes through EFSC and the county is required to issue a conditional use permit. Mrs. Mabbott said they would issue the permit with conditions

that would have to be met. The applicant would also have to obtain a zoning permit within those two years. Discussion followed.

Public testimony: Dave Price said he concurs with changing the language from four years to two years. Two years is a reasonable amount of time to show that a project is viable. The longer the time is extended, the more the project can change and become out of sync with the issues, concerns and affected land owners. His concern is with regard to utility sitings and making sure that they cannot drag on. He asked if there was something that could be done to set a time limit for these types of applications. Commissioner Danforth noted that on page 3 under number 2, the Code stated that if the permit was not exercised within the time frame specified it would expire. Mrs. Mabbott told Mr. Price that this change to the Code will close the loop hole. Discussion followed.

Chairman Randall closed the hearing at 8:46 p.m. and deliberations began. Chairman Randall said he was comfortable with the changes that had been noted to Mr. Jennings and would like for him to work with county counsel to make the necessary changes and forward this to the Board of County Commissioners.

Commissioner Marlatt made a motion for the Planning Commission to recommend the Umatilla County Development Code 2014 Update as modified during this hearing to the Board of Commissioners for adoption. Commissioner Lee seconded the motion. It passed 6-0.

NEW HEARING:

Chairman Randall opened the hearing and identified it as Comprehensive Plan Amendment #P-108-13; Text Amendment #T-13-051 and Zone Map Amendment #Z-299-13. He asked if there were any abstentions, bias, conflict of interest or declarations of exparte contact; there were none.

Staff report: Planning Director Tamra Mabbott said Morrow County and Umatilla County tried to adopt plan designations and zones that are common in areas where both counties had similar property zones.

Mrs. Mabbott introduced Carla McLane, Planning Director for Morrow County; Patty Perry, Planner for CTUIR (Confederated Tribes of the Umatilla Indian Reservation) and Stan Hutchison from the Oregon National Guard. They were at the hearing to answer questions the Commissioners may have.

Mrs. Mabbott referred to the first attachment in the commissioners' packets as the public law which identified the process developed by congress for new uses for chemical depots when they are no longer needed for chemical disposal. Another attachment was sections of the Umatilla Army Depot Redevelopment Plan (UMADRA). This is the plan that the Local Reuse Authority (LRA) adopted several years ago. The Local Reuse Authority is comprised of two representatives from Morrow County and Umatilla County; two representatives from each port district and four representatives from CTUIR. Counties are

asked comply with the statewide planning program and adopt plan and zoning designations.

She referred to the Comprehensive Plan map as the Depot Plan District. The next map on the screen showed the Umatilla Army Depot Transition Zone, the Umatilla Depot Wildlife Habitat Zone and the Depot Industrial Zone. Changes have been made to the names of the zones; the zones will be called the Depot Industrial Zone, the Depot Refuge Zone and the Umatilla Depot Military Zone. The military property will remain in federal ownership by the National Guard Bureau. When the land transfer goes through, 7,500 acres will be transferred to the Oregon Military.

The military has their own system of checks and balances through the federal process and will be exempt from obtaining permits from either Morrow or Umatilla County.

On Wednesday, May 21st a conference call took place between Morrow County, Umatilla County, the National Guard and Don Chance, the Executive Director for UMADRA. The Oregon military objected to the "Transition Zone". The area will receive a plan designation the "Umatilla Depot Military Zone" (UDMZ) which will memorialize the uses by the military. But if the property ever becomes owned by the state or privately owned some of the uses would require a permit review.

Mrs. Mabbott said the Oregon National Guard would like to have restrictions on uses adjacent to their property. It was decided to put a statement in the language of the zoning that the area was a military zone so if someone invests in an industrial property in either county they need to understand what is allowed on that property and what is allowed on the neighboring property. Military uses will be carried out in a safe manor consistent with Oregon National Guard protocol. Neighboring property owners should be aware of the noise, etc. that can accompany the military uses and that those uses are allowed without restriction. The industrial properties can be developed but the National Guard will have the assurance that their uses will not be restricted by the development.

Public testimony: Stan Hutchison, Oregon National Guard, 3056 Lancaster Dr. NE, Salem OR 97305. Mr. Hutchison said the zoning of the property for future use needed to be compatible for the National Guard and military uses if the land ever goes from federal to state ownership. They want to ensure that neighbors on adjacent properties are fully aware of the military activity around them and will not complain if that activity affects the operation of a business they may have. Commissioner Rhinhart asked if there were easement restrictions around the Depot and Mr. Hutchison said there were. Mrs. Mabbott referred to a map which showed the easement area and talked about the restrictions for those easements saying that the National Guard scrutinized the uses the county proposed for the adjacent properties. The coulee area was initially slated to be a part of the refuge zone but there is residual contamination from the former incineration project so that area was put into the Depot Industrial Zone.

Commissioner Marlatt asked about an area known as K block and Mrs. Mabbott said the National Guard was taking that area because it had been the repository for the chemicals.

They would be able to provide the needed maintenance and upkeep for the structures. Their site development and reuse plan identifies the way they want to use the property. Mr. Hutchison said they would upgrade existing structures and build more as needed.

Commissioner Rhinhart asked if it was the plan of the Oregon National Guard to expand their presence there and Mr. Hutchison said they had been training there since 1980, typically one weekend per month and a couple of weeks during the summer. When the land transfers to them, it will be used more. The infantry school is officially operated from the Umatilla Depot now.

Commissioner Marlatt asked what National Guard activities were expected to occur at the Depot. Mr. Hutchison said typically the type of training would be individual soldier skills through a simulation center, mock up equipment and the actual tank itself. They start with individuals and work up to teams and crews. After that training they go to the Boardman bombing range and shoot live fire. The fire arms used at the Umatilla Depot would be small arms; the pistol and the rifle with a grenade launcher. All of the live fire will occur on the western portion of the Depot. There are no plans for machine gun ranges on the Depot, those ranges will be located at Boardman. East of the live fire area there will be some laser training that occurs at the Umatilla Depot and the soldiers will be shooting blank ammunition as a part of their maneuvers. The weapons will be an M16 and lower. There are six landing zones that support the infantry school and they will do air assaults from helicopters.

Mr. Hutchison said the Oregon National Guard organizes events such as Employer Day and Family Day to bring people in to show them the National Guard experience.

Commissioner Marlatt asked if the facility would be available to rent. Mr. Hutchison answered that the property is owned by the federal government so it is problematic to make it available to the public and keep the funds. Currently any fees collected would be sent to the federal government. They want to find a way to make the facility available to outside users and keep the rental fees collected for operations and maintenance of the facility.

The next zone discussed was the Umatilla Depot Refuge Zone. Mrs. Mabbott referred to a map which showed the area that had been negotiated for this zone. The Tribes would like to manage that zone but funding is an issue. There was also interest by the Fish and Wildlife Department but they didn't have the funding for it. It is unclear who will be responsible for managing this area. There has to be economic value in order to justify to the BRAC (Base Realignment and Closure) office, the transfer of the land to an entity. The type of uses allowed in this zone would be an interpretive center or low impact recreational activities. Some possible conditional uses allowed might be a larger interpretive center or a short term stay recreational area with camping. Discussion followed.

Commissioner Danforth asked how a commercial solar power generation facility would work with land preservation. Patty Perry, CTUIR, 46411 Timine Way, Pendleton, OR

97801 said the solar panels would be placed in specific areas which were already disturbed and could be developed. That is the reason it is listed in the conditional use section. The standards for renewable energy would be applied. Another possible use for this area is a private cemetery or burial site. Discussion followed.

The Depot Industrial Zone has a total of over 1200 acres and is divided into three areas. To zone land other than farm or forest in Oregon an exception to Goal 14 and Goal 11 was taken. This zone will allow industrial development at a higher density scale. An exception to Goal 3 was unnecessary because none of that area is considered farm ground. They did have to take an exception to justify having industrial property outside of an urban area. After negotiation between state agencies, Morrow and Umatilla counties and the consultant it was decided that industrial development would be allowed but they would not allow commercial development unless it would support the industrial development. However, it was agreed that the commercial use would be the same as allowed in the transportation planning rule which has a 5% commercial safe harbor. This means that almost 60 acres of this area can be developed for commercial purposes. The industrial zone on these properties will be different from the other industrially zoned properties in the county.

Mrs. Mabbott said she had not gone into detail about the exceptions but added that the consultants had done a good job of writing the exception document. The exception document they received originally was a single document for Morrow County and Umatilla County. Each county broke out the portion that applied to them.

Mrs. Mabbott said the Depot Industrial Zone will need to be added to the sign section of the Umatilla County Development Code. It will also need to be added to the beginning of the Comprehensive Plan.

Commissioner Danforth asked if there were any possibility of air borne pollutants in area three and Planner Shane Finck, who was a former employee at the Depot, said the air that came out of the stacks was cleaner than the air surrounding them. The samplings that were done came back with favorable results.

Commissioner Danforth asked if the public was notified and allowed to comment on this proposed zoning. Mrs. Mabbott said the adjoining property owners were sent notice and given the link to the website so they could see the packets provided to the Commissioners.

Commissioner Danforth commented on the difference in the early maps and the new ones and asked why the proposed agricultural land was taken away. Mrs. Mabbott asked Mrs. McLane to respond to that question because of her involvement with the LRA.

Mrs. McLane said over the course of time a number of different versions of these maps were created. An early map put the military across the northern half and left the southern half for industrial purposes but that plan was rejected. After a lot of negotiating the habitat portion was introduced and they've gone through about fifteen versions of the

map. Commissioner Danforth commented that it was interesting that none of the land will be set aside for agricultural purposes. Mrs. McLane said there was no agricultural land set aside in Umatilla County but there was 634 acres set aside in Morrow County.

There was discussion about a 40 acre portion of a crop circle that encroaches on the depot land. Years ago when the Army built the fence it did not follow the property line so the neighboring farmer used that 40 acres as a part of his crop circle. The Army Corps of Engineers recently sent notice to adjoining property owners after surveying the property to let them know where the property lines were. Mrs. Mabbott said she had not received any contact from those land owners. Discussion followed.

Commissioner Danforth asked for clarification regarding the NEO (North East Oregon) Electric Grid Hub. Mrs. McLane said the B2H (Boardman to Hemingway) transmission line and the PGE (Pacific Gas & Electric) Cascade Crossing line and a possible large line from Canada to Northern California would intersect in an area not yet exactly defined. The original corridor for the large line from Canada was initially described as being in West Umatilla County and North Morrow County and was in the vicinity of 50 miles wide because they were unsure of where the line would run.

Commissioner Danforth asked about the Energy Recovery Plant. Mrs. McLane explained that the UMADRA plan would not be adopted by either Umatilla or Morrow County. The list of possible uses was written for the LRA as a requirement of the BRAC process. Discussion followed.

Mrs. Mabbott said she received an email from Rick McCartle of Whidbey Island Naval Air Station about the Depot zoning process and how the allowed uses might limit the proposed military operating area. Mrs. McLane said they are proposing to expand and apply over some of the property, a new military operations area which is different from a restricted air space. The military operations area being proposed has a 500 foot above ground level floor. If structures are placed on the ground there is potential impact to the way they have to deal with the 500 feet. The process to address that issue is called a Joint Land Use Study in which the military should engage the community and bring them into the process for reviewing the land uses. That process cannot be initiated until the air space is established.

Mrs. McLane said she spoke with Grant Young from DLCD (Department of Land Conservation and Development) who stated that his department had reviewed the application and had no concerns with it.

Chairman Randall closed the hearing at 10:12 p.m.

Commissioner Danforth made a motion to recommend to the Board of County Commissioners the adoption of #T-13-051, # P-108-13 and #Z-299-13 as written. The motion was seconded by Commissioner Rhinhart and passed 6 – 0.

Chairman Randall adjourned the hearing at 10:15 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Connie Hendrickson".

Connie Hendrickson
Administrative Assistant

Adopted by the Planning Commission on 8/28/14